

# **SICC 5/11/06**

## **Compliance**

### **Missouri State Plan for Special Education Regulation Implementing the Individuals with Disabilities Education Act, 2004**

#### **CHILD COMPLAINT PROCESS**

##### **Statement of Jurisdiction**

The Department of Elementary and Secondary Education, as a grantee under the Individuals with Disabilities Education Act (IDEA), must maintain procedures for receiving, investigating, and resolving complaints alleging that statutes and/or regulations implementing IDEA have been violated. This process is known as the child complaint process.

##### **Limitations**

A complaint must allege a violation by a responsible public agency that occurred not more than one year prior to the date that the complaint is received unless a longer period is reasonable because the violation is continuing or compensatory services are applicable for a violation that occurred not more than three years prior to the date the complaint is received.

##### **Initiating of a Complaint**

A child complaint must be filed in writing and must:

State facts describing an alleged violation of state and/or federal regulations implementing IDEA.

The complaint should include the name, address, and phone number of the complainant as well as applicable information regarding the student(s) involved.

##### **Processing of Complaint Record**

Upon receipt, the complaint shall be reviewed by the complaint coordinator and necessary staff assigned to investigate it. The complaint shall also be entered into the complaint tracking process.

##### **Investigation of the Complaint**

The process of investigation shall include: staffing the complaint, providing written notice of the complaint to the responsible public agency, written acknowledgment to the complainant, data collection, and on-site visits where appropriate.

- A. Assigned staff will review the complaint to determine the parameters of the investigation. This would include determining whether an on-site visit will be necessary or whether the information may be obtained through the use of a data request and phone interviews. If an on-site visit is needed, the details of the visit shall be discussed with the complaint coordinator and is subject to approval of the coordinator.
- B. Upon receipt of a complaint and completion of the staffing, notice shall be sent to the responsible public agency against which the complaint is filed. The notice shall include a statement of the elements of the complaint, a description of the investigation process and, if

possible, the details of any on-site visits, data requests, or phone interviews that are planned. The responsible public agency shall be invited to provide any relevant information.

- C. Upon receipt of a complaint and completion of the staffing, a written acknowledgment shall be sent to the complainant and shall include a statement of the elements of the complaint, a description of the investigation process, and an invitation to provide any relevant information the complainant wants considered.
- D. Documentation requests and phone interviews will be the primary methods of data collection in the complaint investigation. The data request should include documents relevant to the complaint and should be forwarded to a designated contact with the responsible public agency. It is the purpose of the data requests and phone interviews to attempt, where possible, to resolve the complaint without an on-site visit.
- E. If the investigation requires an on-site visit, separate notice to the responsible public agency shall be given. This notice may be given by phone, but should preferably be in writing. If the notice is given by phone, then a confirmation in writing should follow-up the phone conversation. The notice shall include a statement of the records to be made available, staff to be interviewed, and any need for access to school or agency facilities.

### **Investigation Timelines**

The Department of Elementary and Secondary Education shall have, upon receipt of the completed complaint, sixty (60) calendar days to investigate and resolve the complaint. Extension of this time limit may be granted by the Commissioner of Education, if exceptional circumstances exist with respect to the particular complaint. If such an extension is given, notice shall be given to the complainant and the responsible public agency under investigation, with documentation of that notice to be maintained within the child complaint file.

### **Resolution of the Complaint**

Resolution of a child complaint shall be through the issuance of a Decision letter from the Commissioner of Education, Department of Elementary and Secondary Education. The Decision letter shall include findings of fact and conclusions, and provide reasons for the Decision. These findings would include a review of the investigation results, including any information in an on-site investigation or from a data request. The basis for resolution may be any one of the following:

- A. a decision that the responsible public agency is not out of compliance;
- B. a decision that the responsible public agency is out of compliance, but that voluntary corrective action has been taken by the public agency to bring the public agency into compliance;
- C. a decision that the responsible public agency is out of compliance, and ordering a corrective action with a timeline for submission to the Department of Elementary and Secondary Education. Corrective actions ordered by the Commissioner of Education may include, but are not limited to, technical assistance activities, negotiations or other actions to achieve compliance.

### **Final Decision**

The findings of the Commissioner of Education related to the complaint shall constitute a final decision of the Department of Elementary and Secondary Education. No further appeal is available.